

Message Text

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21

ACTION EA-09

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R 270255Z APR 76

FM AMEMBASSY JAKARTA

TO SECSTATE WASHDC 4072

LIMITED OFFICIAL USE JAKARTA 5458

EO 11652: NA

TAGS: BDIS ID

SUBJECT: TRADE COMPLAINT: TARAKAN RAYA-KAISER TRADING COMPANY

REF: (A) JAKARTA 4947, (B) STATE 093463

1. AFTER MESSAGE REF B WAS CONVEYED TO ADMIRAL DHARMA'S REPRESENTATIVE AND LAWYER, PELENKAHU, WHO HAD CALLED TO INQUIRE, PELENKAHU VISITED EMBOFF APRIL 22 WITH LETTER TO E/CM COUNSELOR DATED APRIL 21 (COPY BEING POUCHED). LETTER ASKS IF KAISER TRADING COMPANY'S UNWILLINGNESS TO SEND REPRESENTATIVES TO JAKARTA FOR MEETING IS "FINAL" AND STATES "THE ALTERNATIVE OF A FINAL REFUSAL OF K.T.C. TO COME TO JAKARTA IS OF COURSE TAKING THE CASE INTO COURT WITH ALL THE PUBLICITY INVOLVED SINCE IN THE EXISTING DEBATE SOLID EVIDENCE IS AVAILABLE CONSTITUTING MALVERSION IN CONSPIRACY." LETTER CLOSES WITH REQUEST THAT EMBASSY ASK K.T.C. FOR "DEFINITE" ANSWER TO TARAKAN RAYA'S INVITATION FOR FINAL MEETING IN JAKARTA.

2. PELENKAHU SAID THAT IN ABSENCE OF SATISFACTION FROM K.T.C. FOR \$30 A TON "OVERPRICE" FOR FERTILIZER SHIPPED, DHARMA WAS CONTEMPLATING LEGAL ACTION ON TWO FRONTS: CRIMINAL PROSECUTION OF K.T.C. IN INDONESIA FOR "BRIBERY," AND CIVIL ACTION FOR DAMAGES. HE SAID TARAKAN RAYA HAS COPY OF INCRIMINATING LETTER FROM K.T.C.'S LOCAL AGENT WHICH SAID IT WAS "COMMON PRACTICE" TO PAY OFF OFFICIALS TO "SMOOTH" PROCEDURE. PELENKAHU ADDED THAT PUBLICITY THAT COULD RESULT FROM BRIBERY PROSECUTION WOULD BE EMBARRASSING TO K.T.C., ESPECIALLY IN LIGHT OF LOCKHEED AND OTHER RECENT SCANDALS. HE NOTED, THAT BRIBERY ACTION WOULD ALSO

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IMPLICATE INDONESIAN OFFICIALS, AND THIS PRESENTED PROBLEM TI

THIS STRATEGY. IN SAME SPIRIT OF CANDOR, PELENKAHU SAID
DHARMA HAS NO LEGAL GROUNDS FOR CIVIL BREACH OF CONTRACT AGAINST
K.T.C.; AND THAT ALL HE HAS IS "MORAL" CLAIM BASED ON UNWRITTEN
"UNDERSTANDING" WHICH SUPERSEDED WRITTEN CONTRACT FOR SALE AT
\$418 TON.

3. EMBOFF ADVISED PELENKAHU THAT K.T.C. LIKELY TO BE GUIDED BY
LEGAL OBLIGATIONS, NOT UNSUPPORTED CHARGES, BUT AGREED TO CONVEY
ABOVE TO K.T.C. VIA DEPARTMENT. WOULD APPRECIATE DEPARTMENT
DOING SO.
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